COPYRIGHT LAWSUIT

Record Labels File $412 Million Copyright Infringement Lawsuit Against Internet Archive

Complaint claims organization's "Great 78 Project," which includes music from Frank Sinatra, Ella Fitzgerald, and more serves as an "illegal record store"

BY ALTHEA LEGASPI AUGUST 12, 2023

General view of vintage turntables and needles playing a 78 RPM vinyl album on May 20, 2009 in New York City. AL PEREIRA/GETTY IMAGES/MICHAEL OCHS ARCHIVES

UNIVERSAL MUSIC GROUP, Sony Music Entertainment, Capitol, and other record labels filed a copyright lawsuit on Friday against Internet Archive, founder Brewster Kahle, and others over the organization's "Great 78 Project," accusing them of behaving as an "illegal record store." The suit lists 2,749 pre-1972 musical works available via Internet Archive by late artists, including Frank Sinatra, Ella Fitzgerald, Chuck Berry, Billie Holiday, Louis Armstrong, and Bing Crosby, among others.

The suit, which was filed in federal court and reviewed by *Rolling Stone*, claims the Internet Archive's "Great 78 Project" — launched by Internet Archive as a community project for "the preservation, research and discovery of 78rpm records," according to its blog — has violated copyright laws. By "transferring copies of those files to members of the public, Internet Archive has reproduced and distributed without authorization Plaintiffs' protected sound recordings," the suit alleges.

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The nonprofit Internet Archive began in 1996, stating its mission is to "provide Universal Access to All Knowledge." It purports to be a digital library that provides free access to researchers, historians, scholars, and the general public. Its "Great 78 Project" follows suit; the community project dedicates itself to "the preservation, research and discovery of 78rpm records" per a post about the project. It provides free access to "over 400,000 recordings" as Internet Archive estimates in its post.

The Plaintiffs — UMG Recordings, Capitol Records, Concord Bicycle Assets, CMGI Recorded Music Assets, Sony Music, and Arista Music — who own in full or in part the copyrights to some of the music in the collection claim the works were illegally distributed to those visiting Internet Archive "millions of times."

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"Defendants attempt to defend their wholesale theft of generations of music under the guise of 'preservation and research,' but this is a smokescreen: their activities far exceed those limited purposes," according to the complaint. "Internet Archive unabashedly seeks to provide free and unlimited access to music for everyone, regardless of copyright."

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The suit further alleges: "In truth, Defendants' malfeasance springs from their disregard for copyright law and the rights of artists and content owners. Internet Archive and the other Defendants have a long history of opposing, fighting, and ignoring copyright law, proclaiming that their zealotry serves the public good. In reality, Defendants are nothing more than mass infringers."

The Internet Archive did not immediately return *Rolling Stone*'s requests for comment.

In a statement shared with *Rolling Stone*, the Recording Industry Association of America said, "The record company Plaintiffs bring this case to address Defendants' industrial scale infringement of some of the most iconic recordings ever made – including classic works by Frank Sinatra, Thelonious Monk, Ella Fitzgerald, Billie Holiday, Miles Davis, Louis Armstrong and many more. Congress took decisive action to protect pre-1972 recordings in the Music Modernization Act. Defendants' mass scale copying, streaming and distribution of the thousands of pre-1972 recordings identified in the complaint — all of which are commercially available on multiple legitimate streaming services — are blatant violations of those established rights. Just as Internet Archive's supposed 'emergency library' of copyrighted books was recently ruled unlawful by a federal judge, its 'Great 78' project is yet another mass infringement scheme that has no basis in law."

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The suit seeks statutory damages of up to $150,000 for each protected sound recording infringement, which could exceed more than $412 million, along with attorneys' fees as well as injunctive and further relief determined by the court.

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Internet Archive has also been sued by several major book publishers for scanning and lending digital copies of copyrighted books (a judge ruled in favor of the publishers in March, per *NPR*. Internet Archive plans to appeal).

This story was updated 8/14/23 @ 11:51 a.m. ET with a statement from the RIAA.